

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA

v.

JAMIER MARQUIS ROBINS (01)

Criminal No. 4:13-CR-142-Y
(ECF)

GOVERNMENT'S RESPONSE TO DEFENDANT'S
MOTION FOR DEPARTURE AND/OR VARIANCE

The United States Attorney for the Northern District of Texas, in response to the defendant Jamier Marquis Robins's Motion for Downward Departure and/or Variance, would respectfully show the Court as follows:

The government opposes a departure but defers to the Court as to the propriety of a variance. Robins has already received the benefit of a statutory cap of 20 years; after consideration of all of Robins's offense conduct (Total Offense Level 37) and criminal history (Criminal History Category III), his guideline range was 262 to 327 months.

Departure based on USSC's Proposed Amendment

Robins requests a two-level variance based on the Sentencing Commission's proposed amendment to section 2D1.1 of the Sentencing Guidelines, which lowers all current base offense levels by two points. In the alternative, he requested a continuance to evaluate the Sentencing Commission's hearing on the amendment, which is scheduled for March 2014, and which the Court has already denied.

When arriving at a properly calculated guideline range, the Court should consider the Guideline that is in effect. If a proposed amendment does go into effect, it is unlikely to occur before November 1, 2014. This Court has already noted that delaying the hearing until that date is not practical. Of course, the Court may consider both the proposed amendment and the current base offense level¹ in arriving at an appropriate sentence under 18 U.S.C. § 3553(a).

Departure Based on Drug Purity

Robins also asks the Court not to consider the purity of the methamphetamine he was selling because, he argues, that unfairly increases his Guideline range. The Sentencing Commission implemented an increase for “actual” methamphetamine in response to Congress’s concern that methamphetamine, frequently known as “Ice,” was more addictive and more dangerous. *See*, U.S.SENTENCING COMMISSION, Methamphetamine Final Report at 11 (November 1999). The purity level of drugs found in Robins’s home was 97.7 percent. PSR ¶ 8. It is reasonable to believe that Congress intended that an individual distributing methamphetamine with that level of purity was much more dangerous to the community than an offender with diluted mixtures and substances.

¹ “The court shall use the Guidelines Manual in effect on the date the defendant is sentenced.” U.S.S.G. § 1B1.11(a).

Conclusion

The government defers to the Court's determination as to whether any variance is appropriate in light of all the circumstances surrounding the offense. Robins suggests the Court should depart six levels; however, with his Criminal History III, his Guidelines would actually be 135-168 months—rather than 121-151 months, which the defendant mistakenly suggested.

Respectfully submitted,

SARAH R. SALDAÑA
UNITED STATES ATTORNEY

/s/ Aisha Saleem
AISHA SALEEM
Assistant United States Attorney
Texas State Bar No. 00786218
801 Cherry Street, Suite 1700
Fort Worth, Texas 76102
Telephone: 817-252-5200
Facsimile: 817-252-5455
Email: aisha.saleem@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on this the 3rd day of March, 2014, I electronically filed the foregoing document with the clerk of court for the U.S. District Court, Northern District, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the following attorneys of record who has consented in writing to accept this Notice as service of this document by electronic means: Christopher Curtis.

/s/ Aisha Saleem
AISHA SALEEM
Assistant United States Attorney